

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2002-163-W - ORDER NO. 2002-567 ✓ ~~110~~

AUGUST 16, 2002

IN RE: Application of South Carolina Water and	) ORDER GRANTING
Sewer, LLC for Approval of Transfer of	) WAIVER OF HEARING
Water System to City of Cayce, South	) AND APPROVING
Carolina.	) TRANSFER OF WATER
	) SYSTEM

This matter comes before the Public Service Commission of South Carolina ("Commission") by way of the Application of South Carolina Water and Sewer, LLC ("SCW&S" or "Company") requesting approval of the sale and transfer of SCW&S's water supply and distribution facilities and system located in the Town of South Congaree, Lexington County, South Carolina, ("the Water System") to the City of Cayce, South Carolina ("the City"). SCW&S filed its Application with the Commission on May 3, 2002.

By its Application, SCW&S seeks the Commission's approval for the sale and transfer of the Water System, including the necessary facilities and tangible and intangible properties, to the City which will enable the City to operate the Water System and provide the City's water service to the users. SCW&S states that the Company and the City have negotiated an agreement, reflected in a Bill of Sale, by which the City will acquire SCW&S's Water System. A copy of the Bill of Sale is attached to SCW&S's Application as Attachment A. SCW&S asserts that upon the Commission's approval of

the proposed transfer of the Water System, the parties will execute the Bill of Sale and related documents.

The Commission's Executive Director instructed SCW&S to publish a prepared Notice of Filing in a newspaper of general circulation in the area affected by the Company's Application and to notify all affected customers of the pending Application. The purpose of the Notice of Filing was to inform interested persons of the manner and time in which to file pleadings in order to participate in the docket concerning the instant matter. No Protests or Petitions to Intervene were received. Accordingly, SCW&S requests that the hearing provisions of 26 S.C. Code Ann. Regs. 103-704 (Supp. 2001) be waived. The Company states a belief that a waiver of such provision is in the public interest in light of the ability of the City to make timely the necessary improvements to the Water Systems and to the quality of service and in light of the fact that the City's operation of the Water System will not be subject to this Commission's jurisdiction pursuant to S.C. Code Ann. 58-5-30 (Supp. 2001).

26 S.C. Code Regs. 103-704 (Supp. 2001) provides that "no existing public utility supplying water to the public ... shall hereafter sell, acquire, transfer, begin the construction or operation of any utility system, or any extension thereof, by the sale of stock or otherwise, without first obtaining from the Commission a certificate that the sale, transfer, or acquisition is in the public interest, or that public convenience and necessity require or will require construction or operation of any utility system, or extension." Although 26 S.C. Code Regs. 103-704 (Supp. 2001) also provides for notice and due hearing, 26 S.C. Code Regs. 103-701(3) (1976) provides that "in any case where

compliance with any of these rules and regulations introduces unusual difficulty, such rules or regulations may be waived by the Commission upon a finding by the Commission that such waiver is in the public interest.” This Commission notes that it has previously considered applications in the context of its weekly agenda session when the applications have no other parties involved and the application is not contested. We are always interested in consumers receiving the best quality of service available. The record reveals that the City intends to make timely the necessary improvements to the Water System and to the quality of service. We find that the City’s making necessary timely improvements to the Water System would be unusually difficult if a hearing is scheduled to dispose of this matter. A hearing would unnecessarily delay improvements being timely made to the Water System. The Commission finds that a waiver of the hearing requirement in the instant matter is in the public interest.

On Tuesday, July 23, 2002, the Commission in its regularly scheduled agenda session, with court reporter present, discussed and considered SCW&S’s Application and the Bill of Sale (Attachment A) submitted by SCW&S in support of the Application. Based upon the Commission’s consideration of the Application, the Commission makes the following Findings of Fact:

1. SCW&S is a limited liability company duly organized and existing under the laws of the State of South Carolina. The Company owns and operates numerous water and wastewater systems subject to the jurisdiction of the Commission, and the Company is a public utility pursuant to S.C. Code Ann. Section 58-5-10(3) (Supp. 2001).

2. The City is a municipal corporation existing under the Constitution and laws of the State of South Carolina, and the City owns and operates a water supply and distribution systems by which it provides water services to users residing within and without municipal limits. Pursuant to S.C. Code Ann. Section 58-5-30 (Supp. 2001), the City's utility operations are not subject to the jurisdiction of the Commission.

3. SCW&S desires to transfer certain of its water supply and distribution facilities and system, including the necessary facilities and tangible and intangible properties, located in the Town of South Congaree, Lexington County, South Carolina, to the City of Cayce, South Carolina, and subject to certain conditions and requirements as set forth in the Agreement and Bill of Sale by and between the parties. A complete description of the proposed transaction is reflected in the Bill of Sale attached to SCW&S's Application as Attachment A.

4. In October 2000, the Department of Health and Environmental Control (DHEC) issued Consent Order Number 2000-224-DW. We hereby take administrative notice of Order Number 2000-224-DW. In Order Number 2000-224-DW, DHEC found that U.S. Utilities violated the State Primary Drinking Water Regulations, 24A S.C. Code Ann. Regs. 61-58.5(J), in that the public water system exceeded the particle maximum contaminant level (MCL) for Radium 226 and Radium 228 for two (2) consecutive monitoring periods. The record reveals that the City intends to make timely the necessary improvements to the Water System and to the quality of service.

5. The City intends to operate the Water System and provide water service to the users of the Water System upon Commission approval of the Application.

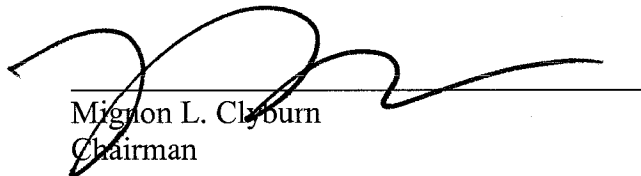
Based upon the above Findings of Fact, the Commission concludes that the requested sale and transfer should be approved.

IT IS THEREFORE ORDERED THAT:

1. The Application of South Carolina Water and Sewer, LLC to sell and transfer its Water System in the Town of South Congaree, Lexington County, South Carolina, to the City of Cayce, South Carolina is approved.

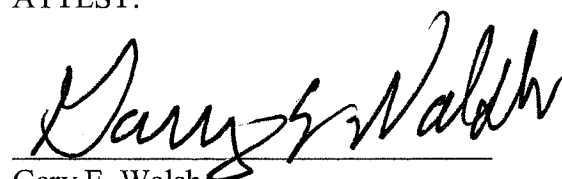
2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Claburn  
Chairman

ATTEST:



Gary E. Walsh  
Executive Director  
(SEAL)